BILL NO. 30

Private Member's Bill

1st Session, 60th General Assembly
Nova Scotia
55 Elizabeth II, 2006

An Act to Amend Chapter 4 of the Acts of 1991, the Members and Public Employees Disclosure Act

CHAPTER 34
ACTS OF 2006

AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 23, 2006

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Richmond

Halifax, Nova Scotia
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An Act to Amend Chapter 4 of the Acts of 1991, the Members and Public Employees Disclosure Act

Be it enacted by the Governor and Assembly as follows:

1 Clause 3(fa) of Chapter 4 of the Acts of 1991, the *Members and Public Employees Disclosure Act*, is repealed and the following clause substituted:

(fa) "Ministerial Code of Conduct" means the code of conduct for members of the Executive Council set out in Schedule B to this Act;

2 The headings immediately preceding Section 7A and Section 7A of Chapter 4 are repealed.

3 The Schedule to Chapter 4 is amended by adding "A" immediately after "SCHEDULE" in the first line.

4 Chapter 4 is further amended by adding immediately after the Schedule the following Schedule:

SCHEDULE B

MINISTERIAL CODE OF CONDUCT

Introduction

The public is entitled to expect ministers of the Crown to act in a way that ensures that the public interest is always paramount. No document can properly address every situation in which ministers are called upon to make a decision as to what is in the public interest. This Code is intended to provide guidelines and a process that must be interpreted with common sense and in the spirit of public service.

The obligations of ministers under this Code are in addition to the duties of members as set out in the *Members and Public Employees Disclosure Act*.

Nothing in this Code is intended to limit a minister's ability to carry out the usual responsibilities of a member of the House of Assembly on behalf of his or her constituents and constituency, in accordance with the parliamentary conventions of Nova Scotia.

Conflict of Interest Commissioner:

Ministers who require clarification or interpretation of these guidelines may consult the Premier or the Conflict of Interest Commissioner.

Guidelines:

1. Ministers must be truthful and forthright. Ministers must not deceive or knowingly mislead the House of Assembly or the public, or permit or encourage agents of the Government to deceive or mislead the House or the public.

2. Ministers must make every effort to ensure that their departments are not used for partisan political purposes.

3. Ministers must avoid situations where a conflict of interest or a reasonable perception of such a conflict of interest could arise between the minister's public duties and private interests.

   (a) Ministers must never use their authority or position, Government information or Government property to advance their own interests or that of a family member.

   (b) Ministers must not accept any personal benefits in any business dealing, acquire any position or undertake any function or have any financial, commercial or other interest that is incompatible with their offices or duties.

   (c) Ministers must disclose all personal property, assets and liabilities held by themselves and members of their immediate families in accordance with the *Members and Public Employees Disclosure Act*.

   (d) A minister must disqualify himself or herself from any decision-making process where the minister knows or ought reasonably to know that there is an opportunity to further the minister's private interest or to improperly seek to further another person's private interest.

   (e) In any decision-making process where the minister knows or ought reasonably to know that there is an opportunity to further the minister's private interest or to improperly seek to further another person's private interest, the minister shall

      (i) advise that the opportunity could result;

      (ii) withdraw from the decision-making process; and

      (iii) refrain from participating in or influencing the decision-making process.

   (g) A minister must not use or permit the use of information that is obtained in his or her capacity as a minister and that is not generally available to the public to further or to seek to further the minister's private interest, or to improperly seek to further the private interest of another person.

   (g) Ministers may not solicit or accept, either directly or indirectly, a gift or other benefit from any person or organization who has dealings with the Government where the gift or benefit is such that it could reasonably be perceived to have influenced the minister in the performance of his or her duties.

   (h) Ministers may accept gifts, hospitality or other benefits if the presentation is a normal expression of courtesy or protocol that does not bring the minister's objectivity into question, the gift was clearly intended for the minister personally and the value of the item is less than $250.00.

   (i) A gift or benefit of a value of $250.00 or greater should be declined. When this is not possible, it should be disclosed to the Conflict of Interest Commissioner and the minister must either donate any gift of a value of $250.00 or greater to the Province or pay to the Province an equivalent amount as approved by the Conflict of Interest Commissioner.

   (j) Ministers may not solicit or accept, either directly or indirectly, a fee from any person or organization who has dealings with the Government.

4. Ministers must respect the responsibilities and obligations placed on public servants and, in particular, those that require that senior public servants avoid conduct that could give rise to the perception that they are not politically impartial.

5. Ministers must not accept payment for speeches of an official nature or that draw directly on their responsibilities or capabilities as ministers.

6. Except as specifically allowed by these guidelines and the *Members and Public Employees Disclosure Act*, a minister must not

   (a) be employed in any other occupation or profession;

   (b) manage a business carried on by a corporation;

   (c) hold a directorship, unless it is one of the duties of the minister;

   (d) hold office in a union or professional association;

   (e) carry on business either in a partnership or sole proprietorship; or

   (f) hold or trade in securities, stocks, futures or commodities.

7. A Minister may engage in the activities prohibited by clauses 6(a) to 6(f) if the minister has disclosed all material facts to the Conflict of Interest Commissioner and the Conflict of Interest Commissioner is satisfied that no conflict exists.

8 A minister who is aware that he or she has a conflict of interest or that there is a reasonable perception of a conflict of interest with respect to a matter on which the minister will be making a decision, the minister shall report that conflict of interest or reasonable perception of a conflict of interest, as the case may be, to the President of the Executive Council or a minister designated by the President and the Executive Council may appoint another minister to perform such duties as the Executive Council considers appropriate for such time as the Executive Council considers necessary to deal with the conflict of interest or perception of a conflict of interest.

9 The Conflict of Interest Commissioner, upon receipt of a complaint or question forwarded to the Conflict of Interest Commissioner by resolution of the House of Assembly or by the Executive Council may investigate, report and make recommendations or responses in writing to the House or the Executive Council, as the case may be.

(a) The Conflict of Interest Commissioner may recommend that

(i) the minister has acted within these guidelines;

(ii) the minister be publicly reprimanded;

(iii) the minister suspend the performance of his or her duties as minister for a specified time or until specified corrective action is taken;

(iv) that the minister be asked to resign as minister;

(v) such other remedy as the Conflict of Interest Commissioner considers reasonable and appropriate.

(b) The Conflict of Interest Commissioner's report shall be made public and shall include the reasons for the decision and the reasons for the particular recommendation.

(c) The decision and recommendation of the Conflict of Interest Commissioner shall be provided to the House of Assembly by delivery of a copy of the report to the Clerk of the House and made public within 30 days of the referral of the complaint by the Executive Council or the House.

(d) The House of Assembly shall determine whether the recommendation of the Conflict of Interest Commissioner shall be accepted, rejected, modified or amended and the decision of the House is binding.

5 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.